



# Haryana Government Gazette

## EXTRAORDINARY

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**HARYANA VIDHAN SABHA**

The 10th September, 2019

**No. H.V.S.-AD-1-2019/14463-66.—**

**BEFORE THE SPEAKER, HARYANA VIDHAN SABHA, CHANDIGARH**

**Petition No. 2 of 2019**

Ram Chand Kamboj, MLA, 44-Rania Haryana Assembly Constituency, S/o Sh. Kanhya Ram, R/o Ward No.5, Near C.M. National High School, Rania, District Sirsa, Haryana.

...Petitioner

Versus

Naseem Ahmad, MLA, 80-Ferozepur Jhirka Haryana Assembly Constituency, S/o Sh. Shakrulla Khan, R/o Village Tigaon, P.O. Pingwan, Tehsil Ferozepur Jhirka, Mewat.

...Respondent

**AND**

**Petition No. 4 of 2019**

Abhay Singh Chautala, MLA, 46-Ellenabad, Haryana Assembly Constituency, S/o Ch. Om Prakash Chautala, R/o Tejakhera Farm House, Village Tejakhera, P.O. Chautala, District Sirsa (Haryana).

...Petitioner

Versus

Naseem Ahmad, MLA, 80-Ferozepur Jhirka Haryana Assembly Constituency, S/o Sh. Shakrulla Khan, R/o Village Tigaon, P.O. Pingwan, Tehsil Ferozepur Jhirka, Mewat.

...Respondent

**Petitions under Article 191(2) under the provisions of Tenth Schedule to the Constitution of India and the rules framed thereunder.**

**Present:-**

None for petitioner in Petition No.2.

Shri Sandeep Goyat, Advocate, Counsel for Petitioner in Petitions No.4.

None for respondent in Petitions No.2 and 4.

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(3116)

**ORDER**

1. Two petitions i.e. Petition No.2 of 2019 titled “Ram Chand Kamboj, MLA versus Sh. Naseem Ahmad, MLA” dated 11.07.2019 and Petition No.4 titled “Shri Abhay Singh Chautala, MLA versus Sh. Naseem Ahmad, MLA” dated 26.07.2019 were filed under Article 191(2) read with Tenth Schedule to the Constitution of India and the Haryana Legislative Assembly (Disqualification of Members on ground of Defection) Rules, 1986 praying for declaring the respondent in both the petitions as disqualified to be the Member of Legislative Assembly on account of his voluntarily giving up the membership of his original political party Indian National Lok Dal (**hereinafter referred to as ‘INLD’**).

2. In both the petitions, the facts and prayer are similar and identical, therefore, in order to avoid multiplication of procedure, findings and judgments, as same question of law is involved in both the petitions, both the petitions are being decided with this common order.

In both the petitions, it has been prayed by the petitioners to declare respondent-Sh. Naseem Ahmad as disqualified under the Tenth Schedule to the Constitution of India and rules framed thereunder, to continue as a Member of the Haryana Legislative Assembly with effect from 30.04.2019 having voluntarily given up the membership of his original political party Indian National Lok Dal (INLD) on whose reserved symbol/ticket he had been elected to the House and his Assembly Seat i.e. 80-Ferozepur Jhirka be declared as vacant with further prayer that his salaries and emoluments, which he received till date, be recovered from him.

3. After going through both the petitions and having satisfied myself that the petitions comply with Rule 6 of Haryana Legislative Assembly (Disqualification of Members on Ground of Defection) Rules, 1986 and to comply with the provisions of Rule 7(3)(a & b), copies of the petitions along with annexures were ordered to be supplied through special messenger to the respondent in both petitions to file his reply/comments within a period of 7 days from the receipt of copy of petitions. However, on the request of respondent, in the interest of justice sufficient time was granted to him to file his reply in the respective petitions.

4. Despite availing sufficient time, the respondent did not file his reply/comments either in person or through his counsel in both the petitions till today i.e. 10.09.2019 as well as no reply/comments to the petitions has been received on his behalf in the Haryana Vidhan Sabha Secretariat through any other mode.

5. The matter was fixed for final arguments on 10.09.2019. I waited for respondent as well as for his counsel for a considerable time. However, till 3.30 PM neither respondent appeared in person nor his counsel to argue the matter in both the petitions. Therefore, the respondent was proceeded ex parte and thereafter, I heard ex parte arguments of the learned counsel for petitioner in Petition No.4 on 10.09.2019 itself.

6. I have gone through both the petitions, copy of Video-CD of news published by TTN News Channel, Delhi dated 30.04.2019; photographs dated 30.04.2019 and newspaper clippings of Amar Ujala dated 30.04.2019, 01.05.2019 & 06.05.2019.

7. Before conclusion, it is necessary to talk about Paragraph 2(1)(a) and 2(2) of the Tenth Schedule to the Constitution of India, which speaks about voluntarily giving up of membership of such political party. Paragraph 2(1)(a) and 2(2) of the Tenth Schedule is reproduced herein below:-

“2. *Disqualification on ground of defection.—(1) Subject to the provisions of paragraphs 4 and 5, a member of a House belonging to any political party shall be disqualified for being a member of the House—*

*(a) if he has voluntarily given up his membership of such political party; or*

xxxxx

xxxxx

xxxxx

*(2) An elected member of a House who has been elected as such otherwise than as a candidate set up by any political party shall be disqualified for being a member of the House if he joins any political party after such election.”*

8. It is pertinent to mention it here that the respondent tendered his resignation personally of his seat in the House on 05.08.2019 and I accepted his resignation on the same date, which was notified by the Haryana Vidhan Sabha Secretariat on 05.08.2019. However, the resignation of the respondent has no effect on the merit of the case, as the cause of action in the petitions has arisen firstly when notice was issued to the respondent in Petition No.2 on 23.07.2019 and secondly on 26.07.2019 when notice was issued to the respondent in Petition No.4.

9. The act of voluntarily giving up membership from the original political party may be either expressed or implied. It is not necessary that Member has required to submit his/her resignation from the membership of his/her original political party.

In the present case, as per evidence available on record, looking into the act and conduct of respondent, it has been proved that the respondent joined other political party, which certainly amounts to his giving up membership of the original political i.e. Indian National Lok Dal (INLD), which had set up him as candidate for election of such political party. Though his resignation from the membership of Haryana Vidhan Sabha has been accepted by me with effect from 05.08.2019 yet in such situation, there can be no escape from the conclusion that the respondent has

incurred disqualification from the membership on the ground of defection under Para-2(1)(a) and 2(2) of the Tenth Schedule to the Constitution of India read with Article 191(2) of the Constitution of India.

10. I, therefore, hold that the respondent, namely Shri Naseem Ahmad in both the petitions deserves disqualification for being a Member of the Haryana Legislative Assembly in terms of Paragraph 2(1)(a) and 2(2) of the Tenth Schedule to the Constitution of India. Hence, he is ceased to be a Member of the Haryana Legislative Assembly with effect from 26.07.2019. I order accordingly.

11. The follow-up action may be taken in accordance with law.

12. A copy of this order be placed on the file of both petitions.

Chandigarh:  
The 10th September, 2019.

KANWAR PAL,  
Speaker,  
Haryana Vidhan Sabha.

Chandigarh:  
The 10th September, 2019.

R. K. NANDAL,  
Secretary,  
Haryana Vidhan Sabha.